IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION Nos.10461, 10462 & 10464 of 1995

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WRIT PETITION No: 10461 of 1995

Between:

S.Vedam, S/o. V.Swayambu Iyer,
R/o. No.127 ,Angappa st., Madras,rep.by his G.P.A.Holder Mr. Raju, S/o. G.Gopalakrishnan, age: 45,
R/o. Plot No.193,Cheran st., Ganesh Nagar, Madras-73.

..... PETITIONER

AND

1. The Controlling Authority, Under payment

of Gratuity Act,1972 cum-The Asst. Labour Commissioner

(Central) ATI Campus, Vidyanagar , Hyderabad.
2. D.Subramanyam, Associated Mineral Corporation

(AMC), Mangampet post,
Agraharam, Railway Kodur, Cuddapah District.
3. Tiffin's Barytes Asbestos & Paints Ltd, rep. by

S.Vedam,partner,Andhra Chambers Buildings,
No.127, Angappa St., P.B.No.72, Madras-600 001.
4 Mr. Madalam Prabhakar, Managing Partner,

Associated Mineral Corporation,
22/27 ,Wakalam street, Ananthapur, A.P.- 515 001.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue notice, call for the records and quash and set aside the impugned order made in Case No.48/7/94/E2/E5, Dt.31.3.1995 on the file of the controlling Authority under payment of Gratuity Act of 1972 cum-Asst. Labour Commissioner (Central), Hyderabad, by issuing a writ of Certiorari or any other appropriate writ or order or direction as the Hon'ble Court may deem fit and proper in the circumstances of the case and to allow the W.P. with costs.

Counsel for the Petitioner: MR.P.NAGESWAR SREE

Counsel for the Respondents: GP FOR LABOUR

Mrs. Padmalatha Yadav

WRIT PETITION NO : 10462 of 1995

Between:

S.Vedam S/o.V.Swayambu Iyer
R/o.No.127, Angappa Street, Madras rep.

by his GPA Holder Mr.G.Raju, S/o.G.Gopalakrishnan
45 years, R/o.Plot No.193, Cheran Street,

Ganesh Nagar Madras - 73

..... PETITIONER

AND

1. The Controlling Authority Under payment

of Gratuity Act, 1972 cum-the Asst. Labour

Commissioner (Central) ATI Campus, Vidyanagar, Hyderabad
2. P.Venkatamma Mangampet Post Agraharam, Railway Kodur, Cuddapah dist.
3. Tiffin's Barytes Asbestors & Paints Ltd., Rep. by S.Vedam,

Partner, Andhra Chambers-Buildings No.127,
Angappa Street, P.B.No.72 Madras - 600 001
4. Mr.Madalam Prabhakar Managing Partner, Associated Mineral-
Corporation 22/27, Wakalam Street, Ananthapur AP - 515 001

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue notice call for the records and quash and set aside the impugned order made in case no.48/11/94-E2/E5 dt.31/3/1995 on the file of the controlling authority under Payment of Gratuity Act of 1972-cum-Asst. Labour Commissioner (Central) Hyderabad by issuing a writ of certiorari or any other appropriate writ or direction.

Counsel for the Petitioner: MR.P.NAGESWAR SREE

Counsel for the Respondents: GP FOR LABOUR

Mrs. Padmalatha Yadav

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WRIT PETITION NO : 10464 of 1995

Between:

S. Vedam S/o. V. Swayambu Iyer
R/o. No.127, Angappa Street, Madras, rep.

by his G.P.A. Holder Mr. G. Raju, S/o. G. Gopalakrishnan, 45 years, R/o. Plot No. 193, Cheran Street,

Ganesh Nagar, MADRAS - 73.

..... PETITIONER

AND

1. The Controlling Authority Under Payment of

Gratuity Act, 1972 cum-The Asst. Labour Commissioner

(Central) ATI Campus, Vidyanagar, Hyderabad.
2. S. BALAGURAPPA, Ex-workmen, Associated Mineral-

Corporation (AMC), Mangampet Post, Agraharam, Railway
Kodur, Cuddapah District, A.P.
3. Tiffin's Barytas Asbestos & Paints Ltd. rep. by its S. Vedam
Andhra Chambers-Buildings,No.127, Angappa Street,
P.B.No.72, Madras - 600 001.
4. Mr. Madalam Prabhakar, Managing Partner,

Associated Mineral- Corporation, 22/27,
Wakalam Street, Ananthapur, A.P. - 515 001.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue notice, call for the records and quash and set aside the impugned order made in Case No.48/16/94-E2/E5, dt.31-3-1995 on the file of the Controlling Authority under Payment of Gratuity Act of 1972 cum-Asst,. Labour Commissioner (Central), Hyderabad, by issuing a writ of certiorari or any other appropriate writ or order or

direction as the Hon'ble court may deem fit and proper.

Counsel for the Petitioner: MR.P.NAGESWAR SREE

Counsel for the Respondents: GP FOR LABOUR

Mrs. Padmalatha Yadav

The Court made the following:

ORAL COMMON ORDER:

All these Writ Petitions can be disposed of by a common order as they arise out of the orders, dated 31.03.1995, passed by the 1st respondent-Controlling Authority under Payment of Gratuity Act, 1972.

2. The contention of the learned counsel for the petitioner is that the amounts awarded by the Tribunal cannot be proceeded against the individual and he was only a Managing Director of the Company and therefore, the order passed by the authority is ex-facie illegal and not sustainable in law. The learned counsel further submits that the impugned orders were passed without any jurisdiction, and it is always open for the petitioner to approach this Court.

3. I am afraid, I cannot accept the contentions raised by the learned counsel.

4. Firstly, the regular appeal lies against the order passed by the authority under the

provisions of the Payment of Gratuity Act, before the appellate authority. However, the petitioner, without availing the remedy of appeal, approached this Court directly.

5. It is always open for the petitioner to press this issue before the appellate authority for having not availed the remedy of appeal. Thus, I am not inclined to adjudicate the matter on merits and the Writ Petitions are liable to be dismissed.

6. Accordingly, the Writ Petitions are dismissed. No costs.

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G. BIKSHAPATHY, J.

Date: 17.02.2005

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To

1. The Controlling Authority Under Payment of

Gratuity Act, 1972 cum-The Asst. Labour Commissioner

(Central) ATI Campus, Vidyanagar, Hyderabad.
2. S. Balagurappa, Ex-workmen, Associated Mineral-

Corporation (AMC), Mangampet Post, Agraharam, Railway
Kodur, Cuddapah District, A.P.
3. P. Venkatamma, Ex-workmen, Associated Mineral-

Corporation (AMC), Mangampet Post, Agraharam, Railway
Kodur, Cuddapah District, A.P.
4. D. Subramanyam, Ex-workmen, Associated Mineral-

Corporation (AMC), Mangampet Post, Agraharam, Railway
Kodur, Cuddapah District, A.P.
5. Tiffin's Barytas Asbestos & Paints Ltd. rep. by its S. Vedam
Andhra Chambers-Buildings,No.127, Angappa Street,
P.B.No.72, Madras - 600 001.
6. Mr. Madalam Prabhakar, Managing Partner,

Associated Mineral- Corporation, 22/27,
Wakalam Street, Ananthapur, A.P. - 515 001.

7. 2 CCs to the G.P. for Labour, High Court of A.P., Hyderabad (OUT)

8. 2 CD copies.